ORIGINAL (2)

No. 00-9769

Supreme Court, U.S.
FILED
APR 24 2001
OFFICE OF THE CLERK

IN THE SUPREME COURT OF THE UNITED STATES

October Term, 2000

DESARIE OVERTON,

Petitioner,

vs.

THE STATE OF OHIO,

Respondent.

MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS

The Petitioner, Desarie Overton, asks leave to file the attached Petition for a Writ of Certiorari, without prepayment of costs and to proceed in forma pauperis. Petitioner has been granted leave so to proceed in the courts of the State of Ohio. Petitioner's Affidavit in Support of Motion to Proceed in Forma Pauperis is attached to this motion.

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Counsel for Petitioner

37 pp

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DESARIE OVERTON,

Petitioner,

vs.

THE STATE OF OHIO,

Respondent.

On Petition for Writ of Certiorari To
The Supreme Court of Ohio

PETITION FOR WRIT OF CERTIORARI

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QUESTION PRESENTED

When evidence is obtained solely due to the execution of an arrest warrant which, in violation of Giordenello v. United, 367 U.S. 480 (1958), issued without any basis on which a probable cause determination could have been made, must the evidence be suppressed?

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No.

IN THE SUPREME COURT OF THE UNITED STATES

October Term, 2000

DESARIE OVERTON,

Petitioner,

vs.

THE STATE OF OHIO,

Respondent.

On Petition for Writ of Certiorari To
The Supreme Court of Ohio

PETITION FOR WRIT OF CERTIORARI

Desarie Overton, awaiting execution of her sentence in the Court of Common Pleas of Lucas County, Ohio, petitions for a writ of certiorari to issue to review the judgment of the Court of Appeals of Lucas County, Ohio entered in this case on September 1, 2000 and which the Supreme Court of Ohio declined to review on January 24, 2001.

OPINIONS BELOW

Petitioner Overton was convicted of cocaine possession in

the Court of Common Pleas of Lucas County, Ohio.

On appeal, the Court of Appeals of Lucas County, Ohio, affirmed Ms. Overton's conviction. The opinion is not reported. State v. Overton, Slip Op. No. L-99-1317 (Sep. 1, 2000)(reproduced at Appendix, A-1).

On January 24, 2001, the Supreme Court of Ohio dismissed Ms. Overton's appeal as not raising any substantial constitutional question. State v. Overton, 91 Ohio St.3d 1415, 741 N.E.2d 142 (2001) (reproduced at Appendix A-9). No petition for rehearing was filed.

JURISDICTION

The decision of the Supreme Court of Ohio dismissing Ms. Overton's appeal for want of a substantial constitutional question was entered on January 24, 2001. State v. Overton, 91 Ohio St.3d 1415, 741 N.E.2d 142. No petition for rehearing was filed. Jurisdiction of this Court is invoked under 28 U.S.C. § 1257 because the Courts of Ohio have denied petitioner rights, privileges and immunities granted her under the Constitution of the United States.

CONSTITUTIONAL PROVISIONS AND STATUTES INVOLVED

This case involves the right to be free from unlawful search and seizure as protected by the Fourth Amendment to the Constitution of the United States and made applicable to the states through the Fourteenth Amendment (both reproduced at Appendix A-11).

STATEMENT OF THE CASE

On November 23, 1998, Toledo Police Detective Daniel Navarre, along with officers of the Directed Patrol Unit, went to 721 Oakwood, Toledo, Lucas County, Ohio, the residence of petitioner Desarie Overton, in order to execute an arrest warrant upon her. Ms. Overton came downstairs to the entry door, refused to permit the officers to enter, and went back upstairs. Navarre then kicked in the door, ran upstairs after her, and pushed open the upstairs door as she was trying to close it.

Navarre testified that, as Ms. Overton fell on the couch, she threw a rolled up bill which landed on the floor spilling out what he recognized as crack cocaine.

The record from the trial court reveals that the arrest warrant was issued based exclusively on a criminal complaint the body of which states, in its entirety:

> Complainant being duly sworn states that Desarie Overton defendant at Toledo, Lucas County, Ohio on or about July 10, 1998 did violate □TMC (or) □ORC # 2925.13 constituting a charge of Permitting Drug Abuse in that the defendant, being the owner, lessee, or occupant of certain premises did knowingly permit such premises to be used for the commission of a felony drug abuse offense, to- wit: Desarie Overton being the lessee, owner, or occupant of 620 Belmont, Toledo, Ohio 43607 knowingly permitted Cocaine, a Schedule Two controlled substance to be sold and possessed by the occupants, there, both being in violation of the Ohio Revised Code, a felony drug abuse offense. This offense occurred in Toledo, Lucas County, Ohio

(The complaint is reproduced at Appendix A-10.)

The grand jury returned an indictment charging Ms. Overton with a single count of possession of cocaine. On April 12, 1999, Ms. Overton filed a motion to suppress. On April 30, 1999, a hearing was held on that motion. Post-hearing briefs were filed; the record was supplemented; and on June 10, 1999, the trial court denied the motion without written opinion. On June 16, 1999, Ms. Overton filed a motion to reconsider. On July 22, 1999 that motion, too, was denied, a bench trial was held, and Ms. Overton was found guilty.

On August 31, 1999, Ms. Overton was sentenced to three years of community control.

On timely appeal to the Court of Appeals of Lucas County, Ohio, Ms. Overton raised two assignments of error:

> Assignment of Error No. 1:
> THE TRIAL COURT ERRED AS A MATTER OF LAW AND TO THE PREJUDICE OF DEFENDANT-APPELLANT WHEN IT DENIED HER MOTION TO SUPPRESS.
>
> Assignment of Error No. 2:
> SHOULD THIS COURT DETERMINE THAT TRIAL COUNSEL FAILED ADEQUATELY TO RAISE THE ISSUE OF WHETHER THE WARRANT WAS ISSUED UPON AN ADEQUATE SHOWING OF PROBABLE CAUSE, COUNSEL WILL HAVE PROVIDED CONSTITUTIONALLY INEFFECTIVE ASSISTANCE OF COUNSEL.

In a Decision and Judgment Entry, and over dissent by one member of the three-judge panel, the court of appeals affirmed the judgment of the trial court. The decision has not been reported. State v. Overton, Slip Op. No. L-99-1317 (Sept. 1, 2000).

Timely notice of appeal was filed with the Supreme Court of

Ohio where Ms. Overton raised the following as her sole proposition of law:

> An arrest warrant which issues without a basis on which a probable cause determination could have been made is void and cannot be relied upon in good faith, and any evidence derived from the execution of the warrant must be suppressed.

The Supreme Court of Ohio, with one dissent, dismissed the appeal sua sponte as not raising any substantial constitutional question. 91 Ohio St.3d 1415, 741 N.E.2d 142.

HOW FEDERAL QUESTIONS WERE RAISED BELOW

Violations of Ms. Overton's rights under the Fourth and Fourteenth Amendments to the United States Constitution were raised by motion to suppress in the Court of Common Pleas of Lucas County, Ohio. They were pursued on direct appeal to the Court of Appeals of Lucas County, Ohio (which purportedly addressed them in its Decision and Judgment Entry, Appendix at A-1), and further pursued by discretionary appeal (dismissed sua sponte) to the Supreme Court of Ohio.

REASONS FOR GRANTING THE WRIT

> Question Presented: When evidence is obtained solely due to the execution of an arrest warrant which, in violation of Giordenello v. United, 367 U.S. 480 (1958), issued without any basis on which a probable cause determination could have been made, must the evidence be suppressed?

On November 23, 1999, police, acting without her permission, forcibly entered the apartment where Desarie Overton was staying. Ostensibly, their purpose was to execute an arrest warrant upon

her. The criminal complaint on which the warrant was issued, and which was sworn out in the Toledo Municipal Court, is a part of the record. Defendant's Exhibit A, Suppression Hearing, 4/30/99 (Appendix at A-10).

Testimony by Detective Navarre at the suppression hearing revealed that the warrant was based on a complaint sworn not before a judge but before a deputy clerk. Detective Navarre testified that criminal complaints in Toledo Municipal Court are routinely issued just that way. No judge passes on the merits of the complaints or determines probable cause.

A rubber-stamped notation on the complaint indicates that a warrant was issued, perhaps on August 7, 1999. Navarre testified that a warrant will issue upon a criminal complaint in Toledo Municipal Court if the officer swearing the complaint asks that a warrant be issued.

The complaint is a form within a form. That is, the complaint is a printed form with certain blanks filled in identifying a criminal charge, in this case, permitting drug abuse in violation of Ohio Rev. Code Ann. § 2925.13. Further, certain items are filled in on a different typewriter than others. The body of the complaint states in its entirety:

> Complainant being duly sworn states that Desarie Overton defendant at Toledo, Lucas County, Ohio on or about July 10, 1998 did violate ☐TMC (or) ☐ORC # 2925.13 constituting a charge of Permitting Drug Abuse in that the defendant, being the owner, lessee, or occupant of certain premises did knowingly permit such premises to be used for the commission of a felony drug abuse

> offense, to- wit: Desarie Overton being the lessee, owner, or occupant of 620 Belmont, Toledo, Ohio 43607 knowingly permitted Cocaine, a Schedule Two controlled substance to be sold and possessed by the occupants, there, both being in violation of the Ohio Revised Code, a felony drug abuse offense. This offense occurred in Toledo, Lucas County, Ohio

The complaint itself reveals nothing about how the officer swearing to the complaint came into possession of the information. Indeed, it contains no specific information about the offense itself, other than date, place, defendant, and charge. And the charge tracks the alternative language of the Ohio Revised Code rather than specifically identifying what the defendant allegedly did.

Insofar as the complaint served as a basis for issuing a warrant, then, it is woefully inadequate. But it was the sole basis for issuing that warrant.

The Fourth Amendment to the United States Constitution, made applicable to the States through the Fourteenth Amendment, Mapp v. Ohio, 367 U.S. 643, 81 S.Ct. 1684 (1961), provides in part that "no Warrants shall issue, but upon probable cause." In Payton v. New York, 445 U.S. 573, 100 S.Ct. 1371 (1980), this Court held that, at least absent exigent circumstances, the Fourth Amendment requires that a nonconsensual entry into a residence to effect a felony arrest requires a warrant founded on probable cause. As discussed above, the clerk who issued the warrant in this case did not have probable cause to do so.

This Court resolved the precise issue in this case more than forty years ago. Writing for the majority in Giordenello v. United States, 357 U.S. 480, 78 S.Ct. 1245 (1958), Justice Harlan recognized that, "The language of the Fourth Amendment, that '* * * no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing * * * the persons or things to be seized * * *,' of course applies to arrest as well as search warrants." Id. at 485-486, 78 S.Ct. At 1249-1250. He explained:

> . . . The purpose of the complaint, then, is to enable the appropriate magistrate, here a Commissioner, to determine whether the 'probable cause' required to support a warrant exists. The Commissioner must judge for himself the persuasiveness of the facts relied on by a complaining officer to show probable cause. He should not accept without question the complainant's mere conclusion that the person whose arrest is sought has committed a crime.
> When the complaint in this case is judged with these considerations in mind, it is clear that it does not pass muster because it does not provide any basis for the Commissioner's determination under Rule 4 that probable cause existed. The complaint contains no affirmative allegation that the affiant spoke with personal knowledge of the matters contained therein; it does not indicate any sources for the complainant's belief; and it does not set forth any other sufficient basis upon which a finding of probable cause could be made. We think these deficiencies could not be cured by the Commissioner's reliance upon a presumption that the complaint was made on the personal knowledge of the complaining officer. . . .

Id. at 486, 78 S.Ct. At 1250.

In this case, as Judge Sherck recognized in dissent in the

Court of Appeals, "the clerk was without any basis to independently evaluate the propriety of issuing this arrest warrant." State v. Overton, Slip Op. At 8 (Sherck, J., dissenting) (Appendix at 8).

Thus, and because there was no probable cause for the arrest warrant, police had no lawful basis to enter Ms. Overton's home without her consent.

But if police could not lawfully enter her home, they also could not lawfully have found the crack cocaine in her home. Thus, both the trial court and the court of appeals were wrong, and the fruit of the illegal entry should have been suppressed.

The substantive issue in this case is whether a police officer's word that a person has committed a crime is sufficient to support the issuance of an arrest warrant. The answer, of course, is that it is not. This Court has said that it is not. See, e.g., Payton and Giordenello, both supra.

The trial court and court of appeals essentially ignored all of that.

Were that all, were this case only about what happened to Desarie Overton, it would be important because it would serve to remind the courts of Ohio that the decisions of this Court count, a lesson which Ohio's courts seem to need constantly to be reminded. See Ohio v. Reiner, 532 U.S. ___, 121 S.Ct. 1252 (2001). The constitutionally established judicial structure under which we operate is controlling, and state courts are bound to follow the law even if they take no pleasure in doing so. The

Supreme Court of Ohio clearly enunciated the principle in State v. Storch, 66 Ohio St.3d 280, 291, 612 N.E.2d 305, 313 (1993): "We know that, as a lesser appellate court for purposes of federal questions, we ignore the words of the United States Supreme Court at our peril." It obviously was not enough.[1]

But that is not all, and this case has a larger significance. For the record of this case reveals that the unconstitutional practice which should have resulted in suppression of the evidence against Desarie Overton is not the exception but is the norm in the City of Toledo. The record reveals that arrest warrants are issued at the Toledo Municipal Court not on a finding of probable cause but simply on the request of police officers. And the record demonstrates that, at least some of the time, that request is not accompanied by information which might be sufficient to support a finding of probable cause.

The short of it is that some substantial number of persons in and around Toledo are, apparently, being arrested in violation of their constitutional rights. The practice must be virtually routine.

---

[1]Though it provides a basis for this Court to grant certiorari pursuant to Rule 10(b), Rules of the Supreme Court of the United States.

CONCLUSION

For the reasons addressed above, the petition for certiorari should be granted.

Respectfully submitted,

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COMMON PLEAS COURT
BERNIE QUILTER
CLERK OF COURTS

IN THE COURT OF APPEALS OF LUCAS COUNTY

State of Ohio — Court of Appeals No. L-99-1317

Appellee — Trial Court No. CR-99-1312

v.

Desarie Overton — **DECISION AND JUDGMENT ENTRY**

Appellant — Decided: SEP 0 1 2000

* * * * *

Julia R. Bates, prosecuting attorney,
and Louis E. Kountouris, for appellee.

Jeffrey M. Gamso, for appellant.

* * * * *

GLASSER, J. This matter is before the court on appeal from the Lucas County Court of Common Pleas.

On February 24, 1999, appellant, Desarie Overton, was indicted on one count of cocaine possession, a violation of R.C. 2925.11(A) and a felony of the fifth degree. On April 12, 1999, appellant filed a motion to suppress arguing that her arrest was the result of an illegal search. A suppression hearing commenced on April 30, 1999.

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Toledo Police Detective Daniel Navarre testified that on November 23, 1998, he had a warrant for the arrest of appellant on a charge of permitting drug abuse. In the early morning hours, Detective Navarre and other officers went to appellant's residence to serve the arrest warrant. Detective Navarre testified that he knocked on the door and watched through a glass window while appellant, whom he recognized from previous encounters, came down the stairs. Appellant did not open the door. Detective Navarre told her he had a warrant for her arrest. Navarre testified that appellant looked at him and signaled him to leave. Navarre then kicked the door in while appellant ran upstairs. Navarre chased appellant as she ran into a room. Navarre testified that appellant attempted to close a door to the room but he was able to push it open. Navarre testified that he watched as appellant fell on a couch and threw a rolled up twenty dollar bill into the air. When the bill landed, pieces of crack cocaine fell out of it. Navarre then arrested appellant on the warrant. She was later indicted for the cocaine.

On cross-examination, Navarre testified that the reason he attempted to arrest appellant on November 23, 1998, for a warrant that was issued in August of 1998, was because he believed that appellant had been threatening witnesses in an unrelated murder case.

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Appellant's motion to suppress was denied. Following a bench trial she was convicted of cocaine possession and sentenced to three years of community control including a thirty day jail sentence. Appellant now appeals setting forth the following assignments of error:

> "I. THE TRIAL COURT ERRED AS A MATTER OF LAW AND TO THE PREJUDICE OF DEFENDANT-APPELLANT WHEN IT DENIED HER MOTION TO SUPPRESS.
>
> "II. SHOULD THIS COURT DETERMINE THAT TRIAL COUNSEL FAILED ADEQUATELY TO RAISE THE ISSUE OF WHETHER THE WARRANT WAS ISSUED UPON AN ADEQUATE SHOWING OF PROBABLE CAUSE, COUNSEL WILL HAVE PROVIDED CONSTITUTIONALLY INEFFECTIVE ASSISTANCE OF COUNSEL."

In her first assignment of error, appellant contends the court erred in denying her motion to suppress.

When reviewing a trial court's ruling on a motion to suppress, an appellate court must accept the trial court's findings of fact if they are supported by competent, credible evidence. State v. Guysinger (1993), 86 Ohio App.3d 592. An appellate court must independently determine, without deferring to the trial court's conclusions, whether as a matter of law the facts meet the applicable standard. State v. Klein (1991), 73 Ohio App.3d 486, 488.

Appellant contends that the arrest warrant was not based on probable cause. Therefore, Detective Navarre unlawfully entered appellant's apartment and unlawfully arrested her for cocaine possession.

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A complaint is a written statement of the essential facts constituting the offense charged. It shall also state the numerical designation of the applicable statute or ordinance. "It shall be made upon oath before any person authorized by law to administer oaths." Crim.R. 3. Crim.R. 4 states in pertinent part:

> "If it appears from the complaint, or from an affidavit or affidavits filed with the complaint, that there is probable cause to believe that an offense has been committed, and that the defendant has committed it, a warrant for the arrest of the defendant, or a summons in lieu of a warrant, shall be issued by a judge, magistrate, clerk of court, or officer of the court designated by the judge, to any law enforcement officer authorized by law to execute or serve it.
>
> "The finding of probable cause may be based upon hearsay in whole or in part, provided there is a substantial basis for believing the source of the hearsay to be credible and for believing that there is a factual basis for the information furnished."

"Probable cause is a fluid concept -- turning on the assessment of probabilities in particular factual contexts -- not readily, or even usefully, reduced to a neat set of legal rules." Illinois v. Gates (1983), 462 U.S. 213, 232, 76 L.Ed.2d 527, 103 S.Ct. 2317. Probable cause to arrest depends "upon whether, at the moment the arrest was made . . . the facts and circumstances within [the arresting officers'] knowledge and of which they had reasonably trustworthy information were sufficient to warrant a prudent man in believing that the [suspect] had committed or was

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committing an offense." Beck v. Ohio (1964) 379 U.S. 89, 91, 13 L.Ed.2d 142, 85 S.Ct. 223, citations omitted.

The arrest warrant for appellant was based on a charge of permitting drug abuse, a violation of R.C. 2925.13(B). The elements of the crime are as follows:

> "No person who is the owner, lessee, or occupant, or who has custody, control, or supervision, of premises or real estate, including vacant land, shall knowingly permit the premises or real estate, including vacant land, to be used for the commission of a felony drug abuse offense by another person."

The complaint in support of the arrest warrant in this case read as follows:

> "Complainant being duly sworn states that Desarie Overton defendant at Toledo, Lucas County, Ohio on or about July 10, 1998 did violate ORC# 2925.13 constituting a charge of permitting drug abuse in that the defendant, being the owner, lessee, or occupant of certain premises, did knowingly permit such premises to be used for the commission of a felony drug abuse offense, to wit: Desarie Overton being the lessee, owner, or occupant of 620 Belmont, Toledo, Ohio 43607 knowingly permitted Cocaine, a schedule two controlled substance to be sold and possessed by the occupants, there, both being in violation of the Ohio Revised code, a felony drug abuse offense. This offense occurred in Toledo, Lucas County, Ohio."

The complaint was signed by Detective Andre Woodson and was certified by T.A. Hearst, a Toledo Municipal Court Clerk.

The complaint in this case listed a specific code section and contained specific factual information sworn to by a fellow Toledo Police Detective. The complaint was certified by a

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clerk of court pursuant to Crim.R. 4. Detective Navarre testified that because he already knew appellant, he recognized her when she came to the door. Based on the foregoing we conclude that Detective Navarre had reasonable ground to believe that the offense was committed and reasonable ground to believe that the person alleged to have committed the offense is guilty of the violation. Therefore, the Court finds that Detective Navarre had probable cause to arrest appellant in this case. Appellant's first assignment of error is found not well taken.

Given our disposition of appellant's first assignment of error, appellant's second assignment of error is found not well-taken.

On consideration whereof, the court finds that appellant was not prejudiced or prevented from having a fair trial, and the judgment of the Lucas County Court of Common Pleas is affirmed. It is ordered that appellant pay the court costs of this appeal.

JUDGMENT AFFIRMED.

A certified copy of this entry shall constitute the mandate pursuant to App.R. 27. See, also, 6th Dist.Loc.App.R. 4, amended 1/1/98.

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Peter M. Handwork, J. JUDGE

George M. Glasser, J. JUDGE
CONCUR.

James R. Sherck, J., dissents.

Judge George M. Glasser, retired, sitting by assignment of the Chief Justice of the Supreme Court of Ohio.

SHERCK, J., dissenting. I respectfully dissent. Warrants satisfactory to meet the requirements of the Fourth Amendment must be obtained from a neutral and detached judge, magistrate, clerk, or other officer of the court who shall assess the evidence presented and determine whether there is probable cause that such warrant should issue. Shadwick v. City of Tampa (1972), 407 U.S. 345, 350; Warden v. Hayden (1967), 387 U.S. 294, 301-302. Since it is the independent official who is charged with making this determination, it has long been held that a mere recitation of the statutory elements of the crime is not sufficient to support a finding that probable cause exists. Giordenello v. United States (1958), 357 U.S. 480, 485; see,

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also, State v. Sharp (1996), 109 Ohio App.3d 757, 760; State v. Zinkiewicz (1990), 67 Ohio App.3d 99, 108; State v. Daniels (1981), 2 Ohio App.3d 328, 329, overruled on other grounds by State v. Bean (1983), 13 Ohio App.3d 69.

In this matter, the only document before the deputy clerk who issued the arrest warrant was a complaint which does no more than recite the statutory elements of R.C. 2925.13(B). The officer making the complaint does not aver that he observed the illegal activity or by whom he was informed of such illegal activity. In my view, without this information the clerk was without any basis to independently evaluate the propriety of issuing this arrest warrant.

Absent a proper warrant, Detective Navarre had no authority to enter appellant's apartment and anything discovered there should have been suppressed. Accordingly, I would reverse her conviction.

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DISMISSALS, SUA SPONTE, NO SUBSTANTIAL CONSTITUTIONAL QUESTION AND DISCRETIONARY APPEALS, IF APPLICABLE, NOT ALLOWED

00-1525. State v. Hoffman. Huron App. No. H-99-035. Resnick, J., not participating.

00-1782. Sharp v. Brennan. Erie App. No. E-00-008.

00-1784. Independence v. Porter. Cuyahoga App. No. 76534.

00-1786. State v. Briscoe. Cuyahoga App. No. 76125.

00-1803. State v. Jenkins. Vinton App. No. 99CA506. Moyer, C.J., and Douglas, J., dissent.

00-1807. State v. Mallick. Lorain App. No. 99CA007281.

00-1808. Rust v. Harris-Gordon. Lucas App. No. L-99-1287. Resnick, J., not participating.

00-1811. State v. Benson. Butler App. No. CA99-11-194. Moyer, C.J., Pfeifer and Lundberg Stratton, JJ., dissent.

00-1815. Bryant v. Allstate Ins. Co. Lorain App. No. 00CA007606.

00-1818. State v. Ashley. Hamilton App. Nos. C-000084, C-000096 and C-000098.

00-1838. State v. Hawkins. Hamilton App. No. C-990807.

00-1851. State v. Booker. Hamilton App. No. C-000177.

00-1852. State v. Zwiebel. Franklin App. No. 00AP-61.

00-1855. Nelson v. Marymount Hosp. Cuyahoga App. No. 76398.

00-1857. Meek v. Nova Steel Processing. Miami App. No. 2000CA1.

00-1884. Buoscio v. Mahoning Cty. Dept. of Human Serv. Mahoning App. No. 00CA121.

00-1885. State v. Miller. Ross App. Nos. 00CA2539 and 99CA2506.

00-1886. State v. Martin. Cuyahoga App. No. 77015.

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00-1887. State ex rel. O'Connor v. Davis. Summit App. No. 19553. Moyer, C.J., Resnick and Lundberg Stratton, JJ., dissent.

00-1888. State v. Overton. Lucas App. No. L-00-1317. Cook, J., dissents.

00-1895. In re Lisa Marie C. Lucas App. No. L-00-1126.

00-1916. State v. Dunbarger. Medina App. No. 3024-M. On discretionary appeal and on motion to withdraw as counsel by Mary R. Kovak. Appeal and motion denied. Resnick, J., would grant the motion to withdraw.

00-1948. Smith v. Bistro Mgt., Inc. Hamilton App. No. C-000079.

00-1951. Bohanan v. Old Republic Title Agency of Columbus, Inc. Franklin App. No. 00AP-644. On discretionary appeal and on motion to strike memorandum in support of jurisdiction. Appeal and motion denied.

00-1952. Blair v. Hunter. Lucas App. No. L-00-1015. Resnick, J., not participating.

00-1957. State v. Wellbaum. Champaign App. No. 2000CA8.

00-1958. State v. Owens. Wood App. No. WD-00-004.

00-1978. STA Realty Inc., Trustee v. Specialty Restaurants Corp. Cuyahoga App. No. 76729. F.E. Sweney, J., dissents.

00-1979. State v. Waldron. Ashtabula App. No. 99-A-0081. Pfeifer and Lundberg Stratton, JJ., dissent.

00-1981. State v. Moore. Franklin App. No. 00AP-64.

00-1982. State v. Boyd. Putnam App. No. 12500001.

00-1983. Broadview Hts. v. Baron. Cuyahoga App. No. 76490.

00-1884. State v. Agner. Allen App. No. 1200007.

00-1886. State v. Walker. Hamilton App. No. C-990503.

00-1890. State Emp. Relations Bd. v. Fairland Local School Dist. Bd. of Edn. Lawrence App. No. 00CA10. Resnick, J., dissents.

00-1892. State v. Lee. Cuyahoga App. No. 77010.

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Case No. _____

STATE OF OHIO / CITY OF TOLEDO

vs.

Desarie Overton

Name

2742 Glenwood

Address

Toledo, Ohio 43610

City State Zip

☐ TMC ☐ ORC R.B. No. 049906A98

Code No. 2925.13

Charge: Permittin. Drug Abuse

Classification: M-1

THE TOLEDO MUNICIPAL COURT
TOLEDO, LUCAS COUNTY, OHIO

Warrant To Issue

COMPLAINT WARRANT ISSUED

(Crim. R. 3 and 4)

Rac B Sex F Hgt 5'02" Wgt 160

Hai Blk Eye Bro DOB 04-18-60

Soc 299-64-4714 Pkt _____

RID 03726666

BCI _____ FBI _____

Alias _____

Complainant being duly sworn states that Desarie Overton defendant at Toledo, Lucas County, Ohio on or about July 10, 19 98 did violate ☐ TMC (or) ☒ ORC # 2925.13 constituting a charge of Permittin. Drug Abuse in that the defendant, being the owner, lessee, or occupant of certain premises did knowingly permit such premises to be used for the commission of a felony drug abuse offense, to-wit: Desarie Overton being the lessee, owner, or occupant of 620 Belmont, Toledo, Ohio 43607 knowingly permitted Cocaine, a Schedule II controller substance to be sold and offered for sale by the occupants, there both being in violation of the Ohio Revised Code, a felony drug abuse offense. This offense occurred in Toledo, Lucas County, Ohio

Sworn to and subscribed before me by Det Andr Woodson #1939 Signature

on 8-2-1998.

Det. A. Woodson #1939
Complainant's Name

525 N. Erie St.
Address

CERTIFICATE
I certify that this is a true copy of the original writ and of the endorsement thereon.

Judge / Clerk / Deputy Clerk
The Toledo Municipal Court

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BEST AVAILABLE COPY

Fourth Amendment, United States Constitution

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall isue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

Fourteenth Amendment, United States Constitution

Section 1

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

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